

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Dalessandro, David A., et al. Confirmation No. 4009
Serial No.: 10/674,303 Art Unit: 3731
Filed: September 30, 2003 Examiner: POUS, Natalie R.
For: APPARATUS AND METHOD FOR ATTACHING A SURGICAL BUTTRESS TO A STAPLING APPARATUS
Docket No.: ETH5093

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO REVIVE AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)
FOR PURPOSES OF CONTINUITY ONLY

Dear Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office issued June 6, 2006. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

03/24/2009 CKHL0K 00000003 100750 10674303

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Applicants wish to revive the application for the purpose of establishing co-pendency with U.S. Serial No. 11/633,291(the '291 Application), in which they

inadvertently failed to claim domestic priority under 35 U.S.C. §120, so as to permit late claiming of domestic priority in the '291 Application.

Accordingly, upon grant of the petition under 37 C.F.R. 1.78(a)(3) for acceptance of an unintentionally delayed claim to priority, filed on even date herewith, Applicants authorize the USPTO to abandon U.S. Serial No. 10/674,303, in favor of U.S. Serial No. 11/633,291.

Applicants submit that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required. The filing of the continuing application (the '291 Application) should suffice as the required Reply to the Office Action issued June 6, 2006.

The USPTO is authorized to charge the required fee under 37 C.F.R. 1.17(m) of \$1620.00 to Deposit Account No. 10-0750/ETH5093/ERS, and the required fee under 37 C.F.R. 1.17(a)(3) of \$1110.00 for a three (3) month extension of time for reply to the Office Action issued June 6, 2006 in the above-referenced application, so as to extend the date of abandonment to December 6, 2006, for the purpose of continuity only.

Applicants did not discover their failure to claim domestic priority until May 9, 2008, in an Office Action issued during prosecution of the '291 Application, and have made several attempts to perfect their claim to priority since then, to no avail.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 10-0750/ETH5093/ERS.

Applicants earnestly solicit acceptance of this petition for revival.

Respectfully submitted,

DAVID A. DALESSANDRO ET AL.

/E. Richard Skula, Reg. No. 31,061/

By: E. Richard Skula
Attorney for Applicants
Reg. No. 31,061

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, N.J. 08933-7003
(732) 524-2718
Docket No. ETH5093
March 3, 2009

Attachments: Petition for Late Claim of Priority